

REMARKS

Claims 1-65 are pending in this application. Claims 3, 9, 10, 23-25, 27, 33, 39, 40, 53-55, 59 and 63-65 are withdrawn from consideration. Applicants agree that claims 3, 27, 33 and 59 include features not present in the elected species and sub-species. However, claims 23 and 53 read on the elected species and sub-species. Although the feature of the closure capsule including a plurality of superposable housings is present in other non-elected species, this feature is clearly present in elected Species I, Figure 1, wherein the closure capsule 3 includes a removable portion 7 and a base portion 6. The removable portion 7 and the base portion 6 are housings and are superposable, as illustrated in Figures 1-4. Thus, consideration of claims 23 and 53 is respectfully requested.

By this Amendment, the specification and the Abstract are amended, as discussed below. Further, claims 1, 2, 28, 32 and 62 are amended. No new matter is added.

The courtesies extended to Applicant's representative by Examiner Walczak during a telephone interview on February 7, 2006, are appreciated. Although the Examiner declined to conduct a detailed interview at that time, in view of the amendments to the claims and the arguments presented below, the Examiner is invited to contact Applicant's representative to schedule a personal or telephone interview to discuss the application.

The Office Action objects to the Abstract. A substitute Abstract is submitted herewith to obviate the objection.

The Office Action also objects to the drawings. Paragraph [0092] of the specification is amended to delete reference to line XXVII, which is not shown in the drawings. This should obviate the objection.

Accordingly, withdrawal of the objections to the Abstract and the drawings is respectfully requested.

The Office Action rejects claim 28 under 35 U.S.C. 112, second paragraph, as indefinite. Claim 28 is amended to replace the "housing" with the "receptacle" for proper antecedent basis. Accordingly, withdrawal of the rejection is respectfully requested.

The Office Action rejects claims 1, 2, 5-8, 11-13, 15, 17, 21, 26, 28-30, 32, 35-38, 41-43, 45, 47, 51, 56-58, 60 and 62 under 35 U.S.C. 102(b) over U.S. Patent No. 6,276,853 to Breidenbach et al. (Breidenbach). This rejection is respectfully traversed.

Independent claim 1 recites "A packaging and dispenser device comprising: a receptacle containing a first substance; an application surface secured to the receptacle during application of the first substance; and a closure capsule of the receptacle containing the first substance, configured to be removably fixed on the receptacle, said closure capsule comprising: fixing means for enabling the closure capsule to be fixed on the receptacle; and at least one housing containing a second substance, said housing being configured so that the second substance can be withdrawn through an opening at an end of the capsule remote from the fixing means, the housing being configured to remain linked to the fixing means during the withdrawal of the second substance, and wherein at least one of the first substance and the second substance is one of a cosmetic product and a care product."

Independent claim 32 recites "A packaging and dispenser device comprising: a receptacle containing a first substance; a closure capsule configured to be fixed in removable manner on the receptacle; an application surface suitable for being contained in an assembly formed by the receptacle and the closure capsule when the receptacle is closed by the closure capsule; and at least one housing defined by a removable portion of the capsule, said removable portion being capable of being fixed on a base portion of the capsule, the closure capsule being configured to enable the housing to be opened independently of fixing the removable portion on the base portion, the housing being suitable for containing at least part of an applicator member and/or a second substance, the housing being configured to remain linked

to the base portion during withdrawal of the application member and/or the second substance, and wherein at least one of the first substance and the second substance is one of a cosmetic product and a care product."

Independent claim 62 recites "A packaging and dispenser device comprising: a receptacle containing a first substance; an application surface secured to the receptacle during application of the first substance; and a closure capsule of the receptacle containing the first substance, configured at one end to be removably fixed on the receptacle, said closure capsule comprising at least one housing containing a second substance, said housing being configured so that the second substance can be withdrawn through an opening at an end of the capsule remote from the end removably fixed on the receptacle, the housing being configured to remain linked to the one end to be removably fixed on the receptacle during the withdrawal of the second substance, and wherein at least one of the first substance and the second substance is one of a cosmetic product and a care product."

Applicant respectfully submits that Breidenbach does not disclose or suggest a housing containing a second substance (and/or an applicator), wherein the housing is configured to remain linked to the fixing means of a closure capsule of a receptacle or to one end of a closure capsule to be fixed on the receptacle during removal (withdrawal) of the second substance (and/or the applicator), as recited in claims 1, 32 and 62.

Breidenbach discloses a liquid dispenser 5 for dispensing perfumes. The dispenser 5 comprises two dispensing bottles 6. Each of the bottles 6 comprises a roller ball applicator 10 and screws into a threaded cap bottle receptacle 12. The receptacles 12 are secured in a common double-ended cap 2. See Fig. 5 of Breidenbach.

The configuration disclosed by Breidenbach allows either of first and second substances respectively contained in the two dispensing bottles 6 to be removed (withdrawn) only when the corresponding bottle 6 is unscrewed from the respective

receptacle 12 secured in the cap 2. Thus, neither of the bottles 6 is a housing containing a second substance and being configured to remain linked to the fixing means of a closure capsule of a receptacle or to one end of a closure capsule to be fixed on the receptacle during removal (withdrawal) of the second substance.

In other words, as interpreted by the Office Action, the second substance contained in the housing 6 (upper receptacle) cannot be removed from the housing 6 (the upper receptacle 6) while the closure capsule 15, 16, 6 (the upper receptacle 6) remains linked to the fixing means (threads 11), i.e., the end of the closure capsule 15, 16, 6 (the upper receptacle 6) to be fixed on the receptacle (the lower receptacle 6). Thus, Breidenbach does not disclose or suggest these features recited in claims 1 and 62.

Therefore, Applicant respectfully submits that claims 1, 32 and 62 are patentable over Breidenbach.

Claims 2, 5-8, 11-13, 15, 17, 21, 26, 28-30, 32, 35-38, 41-43, 45, 47, 51, 56-58 and 60 are patentable over Breidenbach at least in view of the patentability of claims 1 and 32 from which they variously depend, as well as for the additional feature they recite. Accordingly, withdrawal of the rejection is respectfully requested.

The Office Action rejects claims 4, 14, 16, 18-20, 22, 34, 44, 46, 48-50 and 52 under 35 U.S.C. 103(b) over Breidenbach. This rejection is respectfully traversed.

Claims 4, 14, 16, 18-20, 22, 34, 44, 46, 48-50 and 52 are patentable over Breidenbach at least in view of the patentability of claims 1 and 32 from which they variously depend, as well as for the additional feature they recite. Accordingly, withdrawal of the rejection is respectfully requested.

The Office Action rejects claims 31 and 61 under 35 U.S.C. 103(b) over Breidenbach in view of U.S. Patent No. 6,363,947 to Wu. This rejection is respectfully traversed.

Wu does not remedy the deficiencies of Breidenbach discussed above with respect to claims 1 and 32. Thus, claims 31 and 61 are patentable over Breidenbach and Wu, alone or in

permissible combination, at least in view of the patentability of claims 1 and 32 from which they variously depend, as well as for the additional feature they recite.

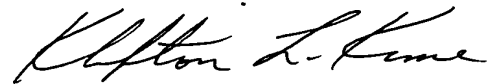
Accordingly, withdrawal of the rejection is respectfully requested.

Rejoinder of claims 3, 9, 10, 23-25, 27, 33, 39, 40, 53-55, 59 and 63-65 is respectfully requested upon allowance of claims 1, 32 and 62, respectively.

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 1-65 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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Attachment:
Petition for Extension of Time

Date: February 10, 2006

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